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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,209	02/12/2004	Lawrence Green	P33870.00	3160
46333	7590	02/15/2011	EXAMINER	
Medtronic			CARTAGENA, MELVIN A	
Attn: Noreen C. Johnson, IP Legal Department			ART UNIT	
2600 Sofamor Danck Drive			PAPER NUMBER	
Memphis, TN 38132			3754	
			MAIL DATE	DELIVERY MODE
			02/15/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/776,209

**Applicant(s)**

GREEN ET AL.

**Examiner**

Melvin A. Cartagena

**Art Unit**

3754

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,9 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,9 and 16-26,28,29 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/10/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Claim Objections**

1. Claim 3 is objected to because of the following informalities: In line 2, the letter "g" between the words "storing" and "fluid" needs to be deleted. Appropriate correction is required.

### **Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,411,180 to Dumelle.

Dumelle shows a pumping system as seen in Figs. 2 and 3, having a source of fluid 14, a hydraulic mechanism 46 to apply pressure to the fluid, a trigger 16 pivotably mounted on housing 12, valves 154 and 156 mounted on the housing to control the flow of fluid from the reservoir including an actuator 150 mounted on the housing at the opposite end of the trigger, the actuator 150 allows adjustment of the pressure manually and releases excess pressurized fluid external of the fluid source, see Fig. 7 and column 4, lines 14-35.

Dumelle also shows a container of viscous material 24 connected to the system to force the viscous material out of the container.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 9, 21-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,411,180 to Dumelle in view of US 4,723,479 to Gallentine.

Dumelle shows all claimed features as discussed above except for flexible conduit connecting the pressurizing mechanism with the viscous fluid container and an air bleeder. Gallentine shows a hydraulic tool system as seen in Fig. 12 having a flexible conduit 264 connecting the pressurizing mechanism 252 with the viscous fluid container 267 and an air bleeder 104. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Dumelle to include a flexible conduit and an air bleeder to create a portable hydraulic power unit that can be used to power a variety of conventionally available tools and yet to be developed tools which require hydraulic pressure for operation and a bleed valve to expel air from the hydraulic system after the fluid outlet has been connected to the container to remove air from the entire hydraulic circuit as taught by Gallentine.

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,411,180 to Dumelle as modified by US 4,723,479 to Gallentine as applied to claim 1 above, and further in view of US 4,250,887 to Dardik et al.

The Dumelle-Gallentine combination shows all claimed features as discussed above but are silent about the length of the flexible tubing being long enough to permit a user to be outside of a radiation field of a patient being imaged. Dardik shows a remote manual injecting apparatus as seen in Fig. 1, with flexible tubing 33 long enough to permit a user to be outside of a radiation field 10 of a patient being imaged 12. It would have been obvious to a person with ordinary skill

in the art at the time the invention was made to provide the device of the Dumelle-Gallentine combination with a long enough flexible tube to distance the operator from the radiation source and prevent exposing an operator to harmful radiation as taught by Dardik.

7. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,411,180 to Dumelle as modify by US 4,723,479 to Gallentine as applied to claim 1 above, and further in view of US 5,015,233 to McGough et al.

The Dumelle-Gallentine combination show all claimed features as discussed above but are silent about a syringe with a plunger connected to the pressure pump and the working pressure range of up to 5000 PSI. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of the Dumelle-Gallentine combination to work in any suitable pressure range, including 5000 PSI, since the pressure required to dispensed a product is a function of factors such as the required dispensed flow rate, type of nozzle assembly and viscosity of the material being dispensed.

#### **Allowable Subject Matter**

8. Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Response to Arguments**

9. Applicant's arguments with respect to claims 1-4, 9, 16-29 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on M-TH (8:30AM to 7:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. C./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754